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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053166
Party	Defendant Leigh A. Gayden
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Attachments	ANSWER TO PETITION TO CANCEL.pdf (5 pages)(64816 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Matter of:

_____)	
Hat World, Inc.)	
)	
)	Petitioner
v.)	
)	Proceeding No. _____
)	
Leigh Garden)	
)	
)	Registrant
_____)	

Registration No.: 3,852,561
Mark: HANDLE THE ROCK
Filed: October 20, 2009
Registered: September 28, 2010

ANSWER TO PETITION TO CANCEL

Handle the Rock (“Registrant”), an individual with its’ principal place of business at 8599 Burlington Court, Manassas, Virginia 20110, herein answers the petitions to cancel the above cited registration.

As answer to Petition to Cancel, Registrant alleges as follows:

1. Registrant is the owner of valid, subsisting and incontestable U.S. Trademark No. 3,852,561 for the mark HANDLE THE ROCK providing basketball instruction services; providing a website featuring basketball instruction and information.
2. On October 20, 2009, Registrant filed, under Trademark Act 1 (a) and claimed a first use date of September 1, 2006, U.S. Trademark Application No. 77,853,386 for the mark HANDLE THE ROCK, for use with “Providing a website featuring basketball instruction and information” in Class41 (“the Subject Mark”). The application matured into U.S. Registration No. 3,852,561.

3. Slippery Rock University of Pennsylvania of the State System of Higher Education Corporation Pennsylvania, Slippery rock, Pennsylvania 16057, is the owner of U.S. Trademark Registration No. 1,353,316 for the mark THE ROCK with Class 41 education and entertainment services at the collegiate level, *namely undergraduate, graduate and continuing education services, and entertainment services namely, theatrical productions, musical performances, athletic exhibitions, intramural, club and inter-collegiate athletic contests*. First used in 19601215 and first used in commerce 19601215. Registration date was August 6, 1985.

4. Dallas White Rock Marathon Non-Profit Corporation of Texas, 2121 San Jacinto Street, Suite 500, Dallas, Texas 75201, is the owner of U.S. Trademark Registration No. 1,911,916 for the mark THE ROCK with Class 41 education and entertainment services *conducting and arranging athletic events, namely marathons*. First used in 19830000 and first used in commerce 19830000. Registration date was August 15, 1995.

5. Legends in the Rock, Inc., Corporation Arkansas, 700 south Rock Street, Little Rock, Arkansas 72202, is the owner of U.S. Trademark Registration No. 2,928,291 for the mark LEGENDS IN THE ROCK with Class 41 education and entertainment services *providing classes in the area of basketball skills, combined with classes, workshops, and seminars in the areas of life skills, social interaction, family life, drug use and smoking prevention, nutritional and oral health, and sexual behavior*. First use 20020713 and first used in commerce 20020713. Registration date was February 22, 2005

6. Legends in the Rock, Inc. Corporation Arkansas, 700 south Rock Street, Little Rock, Arkansas 72202, is the owner of U.S. Trademark Serial No. 78,722,281 for the mark LEGENDS IN THE ROCK & Design with a wide variety of services including, *inter alia*, the Class 41 education and entertainment services, *namely, classes in the area of basketball skills, combined with classes, workshops, and seminars in the areas of life skills, social interaction, family life, drug use and smoking prevention, nutritional and oral health, and sexual behavior*. First use

20020713 and first used in commerce 20020713. Registration date was February 22, 2005.

7. Slippery Rock University of Pennsylvania of the State System of Higher Education unit of the department of education Pennsylvania, Slippery Rock State College, Slippery Rock, Pennsylvania 16057, is the owner of U.S. Trademark Registration No. 1,328,626 for the mark THE ROCK with the Class 25 goods of clothing, *namely, T-shirts, sweat shirts, football shirts, baseball shirts, sweat pants, shorts, sweaters, jackets, hats, golf shirts, scarves, robes and nightshirts*. First use 19801201 and first used in commerce 19801201. Registration date was April 2, 1985.

8. Premiere Athletic Gear Inc., Corporation Pennsylvania, 81 Lancaster Avenue, Suite 214, Malvern, Pennsylvania 19355, is the owner of U.S. Trademark Registration No. 2,440,821 for the mark PUSH THE ROCK with the Class 25 goods of clothing, *namely, tee shirts, sweat shirts, tank tops, polo shirts, jerseys, sports shirts, knit shirts, over jackets, wind resistant jackets, insulated jackets, warm up suits, track suits, athletic uniforms, pants, shorts, sweatpants, insulated pants, caps, hats, sweatbands, headbands, wristbands, footwear and socks*. First use 19921228 and first used in commerce 19921228.

9. Sean White, individual, United States, 21319 Norwalk Blvd., #143, Hawaiian Gardens, California 90716, is the owner of U.S. Trademark Registration No. 2,862,404 for the mark THE ROCK HANDLE with the Class 25 goods of clothing, *namely, t-shirts*. First use 20030315 and first used in commerce 20030802.

10. Pass the Roc Athletics, Inc. Corporation New Jersey, 72 Van Reipen Avenue, Suite 121, Jersey City, New Jersey 07306, is the owner of U.S. Trademark Registration No. 3,016,764 for the mark PASS THE ROC with the Class 25 goods of athletic, casual and dress apparel, *namely, T-shirts, sweatshirts, sweatpants, pants, tank tops, jerseys, shorts, sport shirts, rugby shirts, sweaters, hats, caps, warm-up suits, jackets, coats, headbands, wrist bands, polo shirts and uniforms*. First use 19970100 and first used in commerce 19970100.

11. The above-mentioned U.S. Trademark Registration Nos. 1,353,316; 1,911,916; 2,928,291; 1,328,626; 2,440,821; 2,862,404; 3,016,764 and U.S. Trademark Serial No. 78/722,281 are live registrations bearing THE ROCK mark.

12. Registrant contends the use and registration of the Subject Mark, HANDLE THE ROCK, does not create a likelihood of confusion, mistake and/or deception among consumers, within the meaning of Trademark Act 2(d), not to the detriment of Petitioner. Petitioner does not provide Class 41 educational and instructional services.

13. In view of the foregoing, Registrant believes there have been no damages nor will future damages occur by virtue of Registrant's continued registration and use of the Subject Mark, as set forth in U.S. Registration No. 3,852,561.

WHEREFORE, Registrant prays that the Petition to Cancel be denied and that Registration No. 3,852,561 be maintained.

Date: March 24, 2011

Respectfully submitted

Leigh Gayden

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail addressed to:

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